

## PATENT COOPERATION TREATY

## PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT  
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference AD6871PCT	FOR FURTHER ACTION <span style="float: right;">See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)</span>	
International application No. PCT/US 03/24380	International filing date (day/month/year) 04.08.2003	Priority date (day/month/year) 02.08.2002
International Patent Classification (IPC) or both national classification and IPC C08F8/28		
Applicant E. I. DU PONT DE NEMOURS AND COMPANY et al		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
  
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
 

This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.
  
3. This report contains indications relating to the following items:
  - I  Basis of the opinion
  - II  Priority
  - III  Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV  Lack of unity of invention
  - V  Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI  Certain documents cited
  - VII  Certain defects in the international application
  - VIII  Certain observations on the international application

Date of submission of the demand 26.02.2004	Date of completion of this report 17.11.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Simmerl, R Telephone No. +49 89 2399-8515



INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT

International application No. PCT/US 03/24380

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1-23 as originally filed

**Claims, Numbers**

1-18 as originally filed

**Drawings, Sheets**

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

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5.  This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-18
Inventive step (IS)	Yes: Claims	
	No: Claims	1-18
Industrial applicability (IA)	Yes: Claims	1-18
	No: Claims	

2. Citations and explanations

**see separate sheet**

**Ad section V.:**

1. The plasticized PVB of claim 1 comprises a surfactant. However, it appears that a surfactant is only used in the preparation of the PVB. There is no indication that it has to be in the composition (Art. 6 PCT).
2. The present set of claims is not novel (Art. 33(2) PCT) over document

D1: EP-A-0 402 213, claims 1 and 9 in combination with the process disclosed for "exemple témoin 1" on page 5 (30% plasticizer per 100% plasticized PVB; hydroxyl number and meso/racemic ratio are within the range defined in present claim 1).

It is noted that claim 1 and product-by-process claim 13 are different in scope since the products of claim 13 are not defined by "log of tensile creep".

The process steps disclosed for "exemple témoin 1" of D1 are within the scope of the process steps defined in present claims 6 and 13. This means that the products obtained in D1, "exemple témoin 1" should have the same properties as the products according to present claim 1. "Log of tensile creep" is not mentioned in D1 but it should be taken into account that such strange parameters may also be chosen just to disguise a lack of novelty.

3. Inventive step (Art. 33(3) PCT): not given since the claims are not novel.

4. Industrial Applicability (Art. 33(4) PCT): o.k.

5. Additional remarks:

- 5.1 Process claim 6 and product-by-process claim 13 require that the ratios of parameters (ii) to (v) are adjusted such that the resulting product has certain properties. This is not a technical teaching but only defines the result to be achieved (Art. 6 PCT).
- 5.2 Product-by-process claim 13 is superfluous since it only defines a product by the process for its preparation which product has already been defined by its composition (claim 1) (Rule 6.1a PCT). Moreover, although claim 13 deals with a plasticized PVB it does not mention a plasticizer. It is also noted that the resulting products do not need to have a certain "log of tensile creep" (Art. 6 PCT).